

124 FERC ¶ 61,151  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, DC 20426

August 8, 2008

In Reply Refer To:  
El Paso Electric Company  
Docket No. ER08-1085-000

El Paso Electric Company  
P.O. Box 982  
El Paso, TX 79960

Attention: Mary E. Kipp

Reference: Section 205 Filing Proposing Tariff Revisions

Dear Ms. Kipp:

1. On June 5, 2008, El Paso Electric Company (El Paso) filed tariff sheets pursuant to section 205 of the Federal Power Act, proposing revisions to certain non-rate terms and conditions of its Open Access Transmission Tariff (OATT) that vary from El Paso's *pro forma* tariff as modified pursuant to Order No. 890<sup>1</sup> and Order No. 890-A.<sup>2</sup> As discussed below, we accept in part, effective August 11, 2008, as requested, and reject in part, the proposed tariff revisions.

2. El Paso proposes to amend its OATT to (1) eliminate the requirement to identify the control area(s) from which power will originate for off-system network resources and clarify that generator-specific information is not required for on-system sales; (2) allow for dynamic scheduling service for customers; (3) revise the firm point-to-point and network integration transmission service application deposit and refund procedures; (4) revise provisions relating to firm and non-firm point-to-point scheduling deadlines; and (5) make minor typographical and editorial changes.

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<sup>1</sup> *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241 (2007) (Order No. 890).

<sup>2</sup> *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890-A, 73 Fed. Reg. 2984 (Jan. 16, 2008), FERC Stats. & Regs. ¶ 31,261 (Order No. 890-A).

3. El Paso proposes to eliminate the requirement to identify the control area(s) from which power will originate for off-system network resources as it is not essential to the calculation of available transfer capability (ATC), because El Paso uses a contract path methodology rather than a flow-based methodology for ATC. El Paso notes that the Commission has recently approved similar requests made by *Puget* and *Arizona*.<sup>3</sup> El Paso also proposes a revision that clarifies that generator-specific information is not required for on-system sales since El Paso already has that information. El Paso asserts that not requiring the customer to provide that information, as is its current practice, lessens the customer's obligation and is consistent with Order No. 890-A.<sup>4</sup>

4. In addition, El Paso proposes to include the option for its transmission customers to use dynamic scheduling under El Paso's system control and dispatch service schedule, when feasible and reliable, because this may occasionally be the most cost-effective customer option. El Paso notes that the Commission did not require dynamic scheduling in Order Nos. 890 and 890-A, but concluded that transmission providers may provide this service pursuant to a section 205 filing and the Commission will consider it on a fact specific, case-by-case basis.<sup>5</sup> El Paso notes that Commission approval would be necessary for each agreement between El Paso and the relevant transmission customer.

5. El Paso also proposes to revise its firm point-to-point and network integration transmission service application deposit refund procedures to state that El Paso can return the deposit plus interest by crediting the amount to the customers' service bill upon the commencement of service.<sup>6</sup> El Paso states it will return the deposit with interest calculated in accordance with the Commission's regulations.<sup>7</sup> El Paso explains that the transmission customer must first be considered creditworthy pursuant to the criteria set forth in Attachment L of El Paso's OATT to receive this treatment. El Paso asserts that this proposal strikes a reasonable balance between its current provision and similar

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<sup>3</sup> See *Puget Sound Energy, Inc.*, 120 FERC ¶ 61,232 (2007) (*Puget*); *Arizona Public Service Company*, 121 FERC ¶ 61,246 (2007) (*Arizona*).

<sup>4</sup> See Order No. 890-A at P 889-90.

<sup>5</sup> *Id.* P 630.

<sup>6</sup> El Paso proposes that in the event a deposit is required under section 22.2 (Modification on a Firm Basis), it will return the deposit similarly.

<sup>7</sup> 18 C.F.R. § 35.19a(a)(2)(iii).

provisions waiving the deposit requirement entirely,<sup>8</sup> while maintaining that El Paso remains adequately protected.

6. Additionally, El Paso proposes to revise its scheduling deadline provisions from its 10:00 a.m. submission deadline for firm point-to-point under section 13.8 and its 2:00 p.m. submission for non-firm point-to-point under section 14.6 to times as reasonably specified in El Paso's business practices posted on its OASIS. That is, El Paso proposes to replace the existing language in sections 13.8 and 14.6 with language that the scheduling deadline will be "no later than the time on the day prior to commencement of such service as reasonably specified in the business practices of the Transmission Provider posted on the OASIS, provided that the timing specified in the business practice shall not change without thirty (30) days notice provided on the OASIS." El Paso states its current regionally-accepted business practice for submission of schedules deadline is 2:00 p.m., and that this revision would allow it to accord with regionally-accepted practices, should they change. El Paso also proposes several minor editorial changes that include, among other things, recently approved cross-referencing provisions,<sup>9</sup> certain deadline clarifying revisions to sections 13.8, 14.6, and 18.3, and various typographical changes.

7. El Paso's filing was noticed on June 11, 2008, with comments, protests, or motions to intervene due on or before June 26, 2008. No protests or adverse comments were filed. On July 9, 2008, Rio Grande Electric Cooperative (Rio Grande) filed an untimely motion to intervene. Notices of intervention and unopposed timely filed motions to intervene are granted pursuant to the operation of Rule 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.214). Any opposed or untimely filed motion to intervene is governed by the provisions of Rule 214. The Commission finds that granting motions to intervene filed out-of-time but before the issuance of this order will not disrupt the proceeding or place additional burdens on existing parties, and accordingly grants Rio Grande's motion.

8. Consistent with the Commission's determination in *Puget* and *Arizona*, the Commission will conditionally accept El Paso's proposed deletion of the requirement for the identification of control areas from which power will originate for off-system network resources as unnecessary for its ATC calculation at this time. In Order No. 890, the Commission required public utilities, working through the North American Electric

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<sup>8</sup> See *FirstEnergy Operating Companies*, 83 FERC ¶ 61,030 (1998); *Commonwealth Edison Co. and Commonwealth Edison Co. of Indiana*, 80 FERC ¶ 61,353 (1997); *Salt River Project Agricultural Improvement and Power District*, 90 FERC ¶ 61,284 (2000).

<sup>9</sup> See *Portland General Electric Company*, 122 FERC ¶ 61,226, at P 45 (2008).

Reliability Corporation (NERC), to develop consistent methodologies for ATC calculation.<sup>10</sup> Further, all transmission providers, including El Paso, are obligated as part of their Order No. 890 compliance requirements to revise their ATC calculation methodology to incorporate any changes in NERC's reliability standards and North American Energy Standards Board's business practices related to ATC calculation within 60 days of the completion of such ATC standardization process.<sup>11</sup> Accordingly, consistent with *Puget* and *Arizona*, the Commission will conditionally accept El Paso's revision subject to El Paso submitting, after final Commission action on its required ATC compliance filings, information demonstrating that the specification of delivery points is consistent with that order. In particular, El Paso must demonstrate that the specification of delivery points continues to be sufficiently specific to allow a transaction to be evaluated for its effect on the ATC on El Paso's transmission system.

9. The Commission will also accept El Paso's tariff revision stating that generator-specific information is not needed for on-system sales, as consistent with Order No. 890.<sup>12</sup> The Commission finds that dynamic scheduling will provide customers additional flexibility, and approves its use when it is feasible and reliable. The Commission also finds that El Paso's proposed deposit return requirement revisions will benefit both El Paso and its customers. The Commission will accept these provisions as consistent with or superior to the *pro forma* tariff, and will also accept El Paso's editorial and typographical revisions.

10. The Commission will, however, reject El Paso's proposal to revise its firm and non-firm point-to-point scheduling deadline provisions to provide that the deadline will be the time specified on El Paso's OASIS. This rejection will not prejudice any future filing proposing a time change to the scheduling deadline. Order No. 890 provides that not all rules and standards and practices that relate to, and do not significantly affect, transmission service may be placed on the transmission provider's website.<sup>13</sup> However, the scheduling deadline for firm and non-firm point-to-point service is vital customer information since it determines who ultimately gets transmission service. The scheduling deadline significantly affects transmission service and should be delineated in the transmission provider's tariff. Thus, within 30 days of this order, El Paso must file

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<sup>10</sup> See Order No. 890 at P 2.

<sup>11</sup> See Order No. 890 at P 325.

<sup>12</sup> See Order No. 890-A at P 889-90.

<sup>13</sup> See Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1649-55.

revised tariff sheets to remove the language allowing the posting of such scheduling deadlines only on its OASIS.

By direction of the Commission.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.